

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA**

**If you have worked as a piece rate cable
installer for Nth Connect Telecom, Inc., a
collective action lawsuit may affect your rights.**

Please read this Notice carefully

A court authorized this notice. This is not a solicitation from a lawyer.

- Cable installers have sued Nth Connect Telecom Inc., alleging violation of federal statute Fair Labor Standards Act, seeking to recover overtime time owed and additional amount equal to the amount owed in liquidated damage.
- The Court has allowed the lawsuit to be a collective action for all cable installers employed by Nth Connect at any time from October 12, 2004, through present.
- The Court has not decided whether Nth Connect did anything wrong. There is no money available now, and no guarantee there will be. However, your legal rights are affected, and you have a choice to make now:

YOUR LEGAL RIGHTS AND OPTIONS IN THIS LAWSUIT	
JOIN IN	Join in this lawsuit. Await the outcome. Give up certain rights. By joining in, you keep the possibility of getting money or benefits that may come from a trial or a settlement. But, you give up any rights to sue Nth Connect separately about the same legal claims in this lawsuit.
DO NOTHING	Stay out of this lawsuit. Get no benefits from it. Keep rights. If you do not join in this lawsuit, and money or benefits are later awarded for overtime pay and liquidated damage, you won't share in those. But, you keep any rights to sue Nth Connect separately about the same overtime claims in this lawsuit.

- Your options are explained in this notice. To join in, you must act before Month 00, 0000.
- Lawyers must prove the claims against Nth Connect at a trial. If money or benefits are obtained from Nth Connect, you will be notified about how to ask for a share.
- Any questions? Read on and visit www.MyNthWages.com or call 1-000-000-0000.

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Questions? Visit www.MyNthWages.com

BASIC INFORMATION

1. Why did I get this notice?

Nth Connect's records show that you currently work, or previously worked, for Nth Connect Telecom, Inc. as a cable installer. This notice explains that the Court has conditionally allowed, or "certified," a collective action lawsuit that may affect you. You have legal rights and options that you may exercise before the Court holds a trial. The trial is to decide whether the claims being made against Nth Connect, on your behalf, are correct. Judge Jeremy Fogel of the United States District Court for the Northern District of California is overseeing this collective action. The lawsuit is known as Balarezo, *et al.*, v. *Nth Connect Telecom, Inc., et al.*, Civil Action No. CV-07-5243 JF.

2. What is this lawsuit about?

One of the claims in this lawsuit is about whether Nth Connect failed to pay its cable installation technician who were paid on a piece rate basis the required overtime compensation by only paying earnings from the installations completed without paying a premium payment for overtime hours. As you will see below, when you work more than 40 hours you must be paid overtime wages, based on your piece rate earnings.

3. What is a collective action and who is involved?

In a collective action lawsuit, one or more people called "Class Representatives" (in this case Vladimir Balarezo, Osmin Avila, Victor Funez, and Abelardo Guerro) sue on behalf of other people who have similar claims. The people together are a "Class" or "Class Members." The installation technicians who sued—and all the Class Members like them—are called the Plaintiffs. The company they sued (in this case Nth Connect Telecom, Inc.) is called the Defendant. One court resolves the issues for everyone in the Class—except for those people who choose not to join in the Class.

4. Why is this lawsuit a collective action?

The Court decided that this lawsuit can be a collective action and move towards a trial because it meets the requirements of federal Fair Labor Standards Act § 216(b). Specifically, the Court found that all installation technicians have similar claims as the Class Representatives, and it would serve judicial efficiency to resolve all similar issues of law and facts in one lawsuit. More information is in the [Court's Order Conditionally Certifying the Collective Action](#), available at www.MyNthWages.com.

Questions? Visit www.MyNthWages.com

THE CLAIMS IN THE LAWSUIT

5. What Does the Lawsuit Complain About?

One of the claims in the lawsuit alleges that Nth Connect Telecom failed to pay the required overtime rate (one and one-half) for the hours worked by piece rate installation technicians in excess of 40 hours a week. Even if your wage stub from Nth Connect shows that you were receiving some regular wages and overtime wages, you may be owed additional overtime wages. If the wage stub total equaled your piece rate production total, and you worked more than 40 hours in one week, you are owed an overtime premium based on the number of hours you worked for that week. Under Federal law, all piece rate compensation wages must be added up. This is then divided by all the regular and overtime hours you worked. This total is called the "Regular Rate." At this point, in addition to the piece rate production, you are entitled to the overtime that equals half of the Regular Rate multiplied by the total number of hours worked for that week.

For example, if an installation technician worked 50 hours (40 regular hours and 10 overtime hours) during a week and received \$2,000.00 in piece rate earnings for that week.

His regular Rate for the week is: $\$2,000.00 \div 50$ (total hours worked) = \$40.00 per hour

Overtime wage $\$40.00$ per hour x 0.5 (overtime rate) x 10 (overtime hours) = \$200.00.

Using this example, the worker should have earned \$2,200.00 and is owed \$200.00 even though his piece rate earnings only totaled \$2,000.00.

You can read the Plaintiffs' [Class Action Complaint](#) and get more information at www.MyNthWages.com.

6. How does Nth Connect Answer?

Nth Connect denies that it did anything wrong and says that installation technicians were first employed hired an independent contractor and thus not entitled to overtime pay; and when hired as an employee, were all paid all amount required by law. Nth Connect's [Answer to the Complaint](#) is also at the website www.MyNthWages.com.

7. Has the Court decided who is right?

The Court hasn't decided whether Nth Connect or the Plaintiffs are correct. By establishing the Class and issuing this Notice, the Court is not suggesting that the Plaintiffs will win or lose this case. The Plaintiffs must prove their claims at a trial to starting Month 00, 0000 . (See "The Trial" below on page 8.)

Questions? Visit www.MyNthWages.com

8. What are the Plaintiffs asking for?

The Plaintiffs are asking for the amount earned but not paid representing the extra half of the regular rate of pay for every hour worked in excess of any workweek during their employment with Nth Connect Telecom Inc. In addition, Plaintiffs also ask an equal amount in liquidated damage as well as the interest on the amount.

9. Is there any money available now?

No money or benefits are available now because the Court has not yet decided whether Nth Connect did anything wrong, and the two sides have not settled the case. There is no guarantee that money or benefits ever will be obtained. If they are, you will be notified about how to ask for a share.

WHO IS IN THE CLASS

You need to decide whether you want to join in this lawsuit.

10. Am I part of this Class?

Judge Fogel decided that all installation technicians who have worked for Nth Connect Telecom Inc. at any time from October 12, 2004 through present are Class Members.

11. Which current and former employees are included?

Former employees are in the Class as long as they were employed by Nth Connect any time from October 12, 2004 to present as an installation technician.

In other words, these installation technicians are included:

- **Installation Technicians currently employed by Nth Connect Telecom Inc.**
- **Installation Technicians no longer employed by Nth Connect Telecom Inc. but who were employed by Nth Connect Telecom Inc. after October 12, 2004.**

12. I'm still not sure if I am included.

If you are still not sure whether you are included, you can get free help at www.MyNthWages.com, or by calling or writing to the lawyers in this case, at the phone number or address listed in question 23.

Questions? Visit www.MyNthWages.com

YOUR RIGHTS AND OPTIONS

You have to decide whether to join in the Class or not to participate in the lawsuit, and you have to decide this before **Month 00, 0000**.

13. Why would I join in the lawsuit?

If you want to keep the possibility of getting money or benefits from this lawsuit, you have to join in the lawsuit. If you join in and the Plaintiffs obtain money or benefits, either as a result of the trial or a settlement, you will be notified about how to apply for a share. Keep in mind that if you do join in, regardless of whether the Plaintiffs win or lose the trial, you will not be able to sue, or continue to sue, Nth Connect—as part of any other lawsuit—about the same legal claims under the Fair Labor Standards Act that are the subject of this lawsuit. You will also be legally bound by all of the Orders the Court issues and judgments the Court makes in this collective action.

14. How do I join in the lawsuit?

To join in the lawsuit, you must send a “Consent to be Party Plaintiff” enclosed with this Notice, stating that you want to join in *Balarezo, et al. v. Nth Connect Telecom Inc.* Be sure to include your name and address, and sign the letter. You must mail your Consent to be Party Plaintiff postmarked by **Month 00, 0000**, to: My Nth Wage Op-ins, P.O. Box 0000, San Jose, CA 95113-0000. You may also get a Consent to be Party Plaintiff form at the website, www.MyNthWages.com.

15. No retaliation permitted

The law prohibits retaliation against an employee because he or she filed a complaint or initiate a lawsuit against an employer seeking unpaid overtime. Nth Connect confirms that it will not retaliate against any employee who chooses to join in the lawsuit.

16. Immigration Status Not Relevant

You still have right to join in the lawsuit to recover the unpaid overtime and liquidated damage even if you do not have legal immigration status in the United States. Your immigration status is not relevant and will not become an issue in this lawsuit.

Questions? Visit www.MyNthWages.com

17. What happens if I do nothing at all?

If you do nothing, and do not send in the Consent to be Party Plaintiff postmarked by **Month 00, 0000**, you would not be included in the Class. This means that you won't get any money or benefits from this lawsuit even if the Plaintiffs obtain them as a result of the trial or from any settlement (that may or may not be reached) between Nth Connect and the Plaintiffs. However, you may then be able to sue or continue to sue Nth Connect for unpaid overtime wage that incurred or incurs at any time. If you do not join in, you will not be legally bound by the Court's judgments in this class action.

If you start your own lawsuit against Nth Connect outside this lawsuit, you'll have to hire and pay your own lawyer for that lawsuit, and you'll have to prove your claims.

If you do decide not to join in this lawsuit so that you can start or continue your own lawsuit against Nth Connect, you should talk to your own lawyer as soon as possible, because your claims may be subject to a timeline called statute of limitations which will bar or reduce the amount you are entitled to recover.

THE LAWYERS REPRESENTING YOU

18. Do I have a lawyer in this case?

The law firms of Law Offices of Adam Wang and Law Offices of Tomas Margain are Class Counsel representing Plaintiffs in this case. They are experienced in handling similar cases against other employers.

19. Should I get my own lawyer?

You do not need to hire your own lawyer because Class Counsel is working on your behalf. But, if you want your own lawyer, you will have to pay that lawyer. For example, you can ask him or her to appear in Court for you if you want someone other than Class Counsel to speak for you.

20. How will the lawyers be paid?

If Class Counsel get money or benefits for the Class, they may ask the Court for fees and expenses. You won't have to pay these fees and expenses. If the Court grants Class Counsels' request, the fees and expenses would be either deducted from any money obtained for the Class or paid separately by Nth Connect

THE TRIAL

The Court has scheduled a trial to decide who is right in this case.

21. How and when will the Court decide who is right?

As long as the case isn't resolved by a settlement or otherwise, Class Counsel will have to prove the Plaintiffs' claims at a trial. The trial is set to start on _____ [Day of the week], Month 00, 0000, in the United States District Court for the Northern District of California, 28 North First Street, San Jose, California, in Courtroom 3. During the trial, a Jury or the Judge will hear all of the evidence to help them reach a decision about whether the Plaintiffs or Defendant are right about the claims in the lawsuit. There is no guarantee that the Plaintiffs will win, or that they will get any money for the Class.

22. Do I have to come to the trial?

We do not yet know if you will have to attend the trial. Prior to the Trial, Class Counsel will move for Summary Judgment seeking a determination of unpaid overtime wages. Nth Connect will be able to present defenses and/or arguments on its behalf. You or your own lawyer are welcome to come at your own expense to the Summary Judgment motion or Trial.

23 Will I get money after the trial?

If the Plaintiffs obtain money or benefits as a result of the trial or a settlement, you will be notified about how to participate. We do not know how long this will take.

GETTING MORE INFORMATION

24. Are more details available?

Visit the website, www.MyNthWages.com, where you will find the Court's [Order Authorizing this Notice](#), the [Complaint](#) that the Plaintiffs submitted, the Defendant's [Answer to the Complaint](#), as well as Consent to be Party Plaintiff form. You may also speak to one of the lawyers by calling 1-000-000-0000, or by writing to: My Nth Wage, P.O. Box 0000, San Jose, California.

DATE: MONTH 00, 0000.

Questions? Visit www.MyNthWages.com